

American Rivers  
Environmental Defense  
Natural Heritage Institute  
The Nature Conservancy

**PRELIMINARY QUESTIONS ABOUT JULY 11, 2006 DRAFT OF PLANNING  
AGREEMENT (submitted July 13, 2006)**

**Introductory Paragraph**

Per omission here and Section 5.11, why does the draft treat the Resources Agency as a non-party?

Why are NGO's treated as non-parties?

What are the rights and obligations of a party versus a non-party member of the Steering Committee?

**Section 2**

In Section 2 and later in Section 4, the draft is neutral whether the BDCP will be an NCCP or a take authorization, or both.

Is that neutrality consistent with the commitments made 1) to Senator Machado by DFG and DWR in 2005 and 2) in the 2005 Statement of Principles?

What is the schedule and process for deciding whether the BDCP will be an NCCP?

What will be learned or gained by delaying that decision, given that: (A) any party may choose to withdraw from the Planning Agreement and (B) that process decision does not bind the party with respect to the later decision whether to actually enter into the NCCP?

How can we develop conservation objectives and strategies (scheduled for late 2006 or early 2007) unless we know whether the BDCP will be an NCCP or a take authorization?

**Section 4**

Section 4 provides that, via the BDCP, Covered Activities will meet the requirements of federal and State fish and wildlife protection laws.

What laws, in addition to CESA and FESA, are "fish and wildlife protection laws"?

Is the BDCP intended to effect compliance with other environmental laws?

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What is the relationship between the BDCP and the reinitiation of the OCAP BO? Will the BDCP be used as the basis of the OCAP BO?

## **Section 5**

What is the logic for defining Geographic Scope as Legal Delta and Sacramento below Shasta?

## **Section 6.1.1**

What is the logic for choosing ten Covered Species as the initial focus of the BDCP, and the omission of other MSCP species potentially affected by the Covered Activities listed in Section 7.5?

Why does the list omit terrestrial species?

## **Section 7.4.1**

What is the difference between party and non-party status for a Steering Committee member?

What is the decision process?

What is the decision rule? For example, what happens if consensus is not reached in the Steering Committee?

## **Section 7.5**

What is the logic behind this preliminary list of Covered Activities?

What activities are included, and what are excluded, from each topical bullet? For example, what storage elements of the SWP or CVP are included in, or excluded from, the first bullet?

## **Section 9.8**

Is there any limitation on grounds for withdrawal?

If so, is this agreement binding on parties?